

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PEREZ BROTHERS MARKET, INC.,)
)
Plaintiff,)
)
v.) No. 04cv30146-KPN
)
JOHN M. HESLIN, Chief,)
Administration Review Branch,)
Food and Nutrition Service,)
United States Department of)
Agriculture,)
)
Defendant.)
_____)

STIPULATION OF SETTLEMENT
AND ORDER OF DISMISSAL

WHEREAS, the plaintiff commenced this action against the defendant seeking to set aside the decision of the United States Department of Agriculture disqualifying the plaintiff from participation in the Food Stamp Program for a period of six months;

WHEREAS, the plaintiff and the defendant have agreed that this action shall be settled and dismissed with prejudice, without costs, expenses, or attorneys' fees, upon and subject to the following terms and conditions;

NOW THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The plaintiff will pay to the United States of America a civil money penalty in the amount of \$15,348.00.

2. The above-referenced civil money penalty shall be paid by certified checks made payable to the United States Department of Justice in eight installments as follows: the first installment of \$1,943.00 shall be due and paid upon the signing of this agreement. The remaining seven installments of \$1,915.00 each shall be due by 5:00 P.M. on the first of each month, beginning with the month of November, 2004. The certified checks shall be delivered to the United States Attorney's Office, Financial Litigation Unit, John Joseph Moakley United States Courthouse, Suite 9200, Boston, MA 02210.

3. If the plaintiff fails to tender any installment payment when due, the plaintiff shall be deemed in default of this agreement, and agrees (1) to an automatic disqualification from the Food Stamp Program for six months, commencing the day after the due date of the installment; (2) to a waiver of all rights to an administrative or judicial review of such disqualification; and (3) to forfeiture of any portion of the total civil money penalty that the plaintiff might have already paid.

4. The plaintiff agrees to comply with all applicable laws and regulations of the Food Stamp Program and to fulfill his obligations as set forth in this stipulation. If a random inspection during the ensuing 12 months reveals any

violation of the Food Stamp Act or regulations committed by the plaintiff or any of its employees, the plaintiff agrees (1) to an automatic and immediate disqualification from the Food Stamp Program for the period of time prescribed by the regulations for violations of the kind committed, (2) to a waiver of any rights to an administrative or judicial review of such suspension, and (3) to a forfeiture of any portion of the total civil money penalty that the plaintiff might have already paid.


5. The defendant agrees to modify its decision disqualifying the plaintiff from participation in the Food Stamp program for a period of six months by accepting the above-referenced civil penalty in lieu of disqualification, provided that the plaintiff provide the United States Department of Agriculture, Food and Nutrition Service with a bond or letter of credit in the amount of \$2,558.00, prior to and as a condition of reauthorization. Said bond or letter of credit shall be delivered to Peter Conti, Food and Nutrition Service, USDA, 10 Causeway Street, Boston, MA 02222, and shall remain in force for the duration of the plaintiff's participation in the Food Stamp Program.

6. The parties hereto agree that this stipulation sets forth the entire agreement between them relating to this matter.

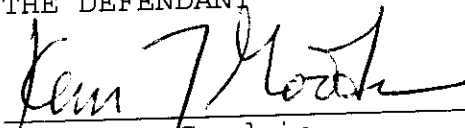
7. This stipulation may be so ordered by the Court without any further notice to the parties.

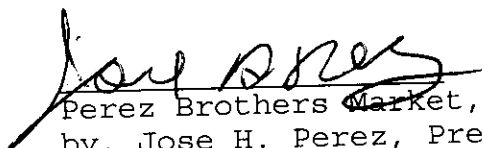
8. Upon approval of the Stipulation of Settlement by the court, this case shall be dismissed with prejudice and without costs, expenses, or attorneys' fees.

THE PLAINTIFF


Steven R. Weiner
930 Main Street
Springfield, MA 01103

THE DEFENDANT


Karen L. Goodwin
Assistant U.S. Attorney
1550 Main Street
Springfield, MA 01103


Perez Brothers Market, Inc.
by, Jose H. Perez, President

APPROVED AND SO ORDERED on this _____ day of _____, 2004.

UNITED STATES MAGISTRATE JUDGE